IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9103 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

RAJKOT DISTRICT PANCHAYAT - Petitioner(s)

Versus

DILIPKUMAR GANDALAL ACHAYRA - Respondent(s)

==========

Appearance :

MR PREMAL R JOSHI for Petitioner No(s).: 1.

MR TR MISHRA for Respondent No(s).: 1.

==========

CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 08/07/2005

ORAL JUDGMENT

1.0 The petitioner Panchayat has challenged the order dated 17.09.1999 passed by the Labour Court, Rajkot in

Reference (LCR) No.840 of 1987, whereby the said reference was allowed.

2.0 The brief facts of the case are that the respondent herein raised an industrial dispute before the Labour Court, Rajkot, by way of filing a reference. The petitioner appeared before the Labour Court and filed its written defence. The Labour Court, after hearing the parties, directed the petitioner to reinstate the respondent to his original post along with full back wages and continuity in service. Feeling aggrieved by the said order, the petitioner has preferred this petition before this Court.

3.0 Mr. Premal R Joshi learned advocate for the petitioner has produced on record a communication written by the respondent himself, wherein the respondent has stated that since he is employed by the Gujarat State Road Transport Corporation from 01.05.1994 and is confirmed in service on 01.12.1995, he is not desirous to resume his duties with the petitioner Panchayat. Mr. Joshi has submitted that since the respondent workman is no longer interested to work with the petitioner Corporation, the impugned order of the Labour Court is required to be quashed and set aside.

4.0 Heard learned counsel for the parties. In view of the communication received from the respondent, the impugned order of the Labour Court, Rajkot, qua directing the petitioner to reinstate the respondent with continuity in service cannot come into operation. However, so far as the direction qua grant of back wages is concerned, the Labour Court has not given any cogent reasons for awarding the same. Moreover, in view of the principle laid down by the Apex Court that a workman shall be entitled for back wages

only if he has worked for the interim period, the respondent herein cannot be said to be entitled for back wages. In that view of the matter, the impugned order of the Labour Court qua granting back wages to the respondent is required to be quashed and set aside.

5.0 In above view of the matter, the impugned order dated 17.09.1999 passed by the Labour Court, Rajkot in Reference (LCR) No.840 of 1987 is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

pravin/ *